TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL

FOR: HEALTH CARE FINANCING ADMINISTRATION

1. TRANSMITTAL NUMBER: 0 4 — 0 0 5

2. STATE: UTAH

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)

TO: REGIONAL ADMINISTRATOR
HEALTH CARE FINANCING ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE
July 1, 2004

5. TYPE OF PLAN MATERIAL *(Check One)*:

☐ NEW STATE PLAN ☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN ☒ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT *(Separate Transmittal for each amendment)*

6. FEDERAL STATUTE/REGULATION CITATION:
Section 1902(a)~~XX~~(13)(A) of the Act

7. FEDERAL BUDGET IMPACT:
a. FFY 2004 $ + 6,500,000
b. FFY 2005 $ [redacted] 6,000,000 KR

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:
Attachment 4.19-D 600, (7 pages); 700; 800; and 900 (11 pages).

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT *(If Applicable)*:
Attachment 4.19-D 600 (2 pages)~~X~~; 700; 800; and 900 (5 pages).

10. SUBJECT OF AMENDMENT:
NURSING FACILITY PAYMENTS

11. GOVERNOR'S REVIEW *(Check One)*:
☒ GOVERNOR'S OFFICE REPORTED NO COMMENT
☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL
☐ OTHER, AS SPECIFIED:

12. SIGNATURE OF STATE AGENCY OFFICIAL:

13. TYPED NAME: Scott D. Williams, MD, M.P.H.

14. TITLE: Executive Director, Utah Department of Health

15. DATE SUBMITTED: August 25, 2004

16. RETURN TO:
Scott D. Williams, MD, M.P.H.
Executive Director
Utah Department of Health
P.O. Box 143102
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FOR [redacted] OFFICE USE ONLY

17. DATE RECEIVED: AUG 26 2004

18. DATE APPROVED: DEC 21 2004

PLAN APPROVED – ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL: JUL - 1 2004

20. SIGNATURE OF REGIONAL OFFICIAL:

21. TYPED NAME: Carmen Keller

22. TITLE: OCN Deputy Director, CMSO

23. REMARKS:

FORM HCFA-179 (07-92) *Instructions on Back*

600 INTRODUCTION

The purpose of this Section is to explain the calculation of the property component of the Nursing care facility reimbursement rate. The property policies discussed in the following Sections 630, 631, 632, and 633 remain in effect until September 15, 2004. **After that date**, the property component will be calculated using a Fair rental Value methodology as discussed in Section 634.

630 PROPERTY FACTORS

Due to the wide variations in property costs and the financial commitments of providers, a portion of the March 27, 1981, property costs are recognized in addition to the base rate. The variation in property costs is recognized in two ways: (1) based on the property costs on March 27, 1981, as incorporated into the July 1, 1981, rates, and (2) new construction as defined in Sections 631, 632 and 633. Except for new construction, the rate differentials for FY 1994 and subsequent years are the same as the rate differential established on July 1, 1991, when rates were rebased and additional property was added to the base rate. There have been no increases for buying, selling, refinancing, new leases or lease escalation clauses since March 27, 1981. Rather, increases in property costs are recognized by inflating the base rate each year. The inflation index is described in Section 900 and is the basis for negotiating the annual inflation adjustments to nursing facility rates. Therefore, the State does not adopt the Medicare approach of recapturing depreciation.

631 EXCEPTION FOR PROPERTY DIFFERENTIAL

When a nursing facility operated by a State or local government is sold, a property differential will be available for meeting life safety requirements that were previously waived by the State. The differential is based on the annual depreciation calculated for the remodeling. Such depreciation will be determined in accordance with the Provider Reimbursement Manual HCFA-Pub. 15-1. In calculating a per diem cost, a 90% occupancy factor will be used. The property differential will be added to the rate in the month following submission of invoices and other requested records to support the expenditure for such property improvements.

632 NEW CONSTRUCTION DEFINED

New construction is limited to either a new building or a new wing to an existing building. It does not include modifying or refurbishing an existing structure.

633 NEW CONSTRUCTION PROPERTY DIFFERENTIAL

The property differential for new construction and related property costs will be the lesser of:

1. Actual property costs in excess of the property cost included in the base rate. The property cost in the base rate is calculated at $8.95 per day for the period beginning July 1, 1995. This figure was inflated forward to $11.19 for Fiscal Year 2003.

2. The simple average property differential of all nursing facilities that have a property differential. This is the new property allowance.

634 FAIR RENTAL VALUE FOR PROPERTY

Effective September 15, 2004, property costs will be calculated and reimbursed as a component of the facility rate based on a Fair Rental Value (FRV) System.

(a) Under this FRV system, the Department reimburses a facility based on the estimated current value of its capital assets in lieu of direct reimbursement for depreciation, amortization, interest, and rent or lease expenses. The FRV system establishes a nursing facility's bed value based on the age of the facility and total square footage.

(i) The initial age of each nursing facility used in the FRV calculation is determined as of September 15, 2004, using each facility's year of construction.

(ii) The age of each facility is adjusted each July 1 to make the facility one year older.

(iii) The age is reduced for replacements, major renovations, or additions placed into service since the facility was built, provided there is sufficient documentation to support the historical changes.

(A) If a facility adds new beds, these new beds are averaged into the age of the original beds to arrive at the facility's age.

(B) If a facility completed a major renovation (defined as a project with capitalized cost equal to or greater than $500 per bed) or replacement project, the cost of the project is represented by an equivalent number of new beds

(I) The renovation or replacement project must have been completed during a 24-month period and reported on the FCP (due March 31st) for the calendar year prior to a July 1 rate year and be related to the reasonable functioning of the nursing facility. Renovations unrelated to either the direct or indirect functioning of the nursing facility shall not be used to adjust the facility's age.

(II) The equivalent number of new beds is determined by dividing the cost of the project by the accumulated depreciation per bed of the facility's existing beds immediately before the project.

(III) The equivalent number of new beds is then subtracted from the total actual beds. The result is multiplied by the difference in the year of the completion of the project and the age of the facility, which age is based on the initial construction year or the last reconstruction or renovation project. The product is then divided by the actual number of beds to arrive at the number of years to reduce the age of the facility.

(b) A nursing facility's fair rental value per diem is calculated as follows:

As used in this subsection (b), "capital index" is the percent change in the nursing home "Per bed or person, total cost" row and "3/4" column as found in the two most recent annual R.S. Means Building Construction Cost Data as adjusted by the weighted average total city cost index for Salt Lake City, Utah.

(i) The buildings and fixtures value per licensed bed is $50,000, which is based upon a standard facility size of at least 450 square feet determined using the R.S. Means Building Construction Cost Data adjusted by the weighted average total city cost index for Salt Lake City, Utah. To this $50,000 is added 10% ($5,000) for land and 10% ($5,000) for movable equipment. Each nursing facility's total licensed beds are multiplied by this amount to arrive at the "total bed value." The total bed value is trended forward by multiplying it by the capital index and adding it to the total bed value to arrive at the "newly calculated total bed value." The newly calculated total bed value is depreciated, except for the portion related to land, at 1.50 percent per year according to the weighted age of the facility. The maximum age of a nursing facility shall be 35 years. There shall be no recapture of depreciation.

(ii) A nursing facility's annual FRV is calculated by multiplying the facility's newly calculated bed value times a rental factor. The rental factor is the sum of the 20-year Treasury Bond Rate as published in the Federal Reserve Bulletin using the average for the calendar year preceding the rate year and a risk value of 3 percent. Regardless of the result produced in this subsection (ii), the rental factor shall not be less than 9 percent or more than 12 percent.

(iii) the facility's annual FRV is divided by the greater of:

(A) the facility's annualized actual resident days during the cost reporting period; and
(B) 75 percent of the annualized operational bed capacity of the facility.

(iv) The FRV per diem determined under this fair rental value system shall be no lower than $8 per patient day.

(v) The FRV per diem determined under this fair rental value system shall be phased-in using a hold-harmless method over a one-year period, as follows:

(A) Nursing facility property rates are calculated under the fair rental value system and compared to rates in effect on July 2, 2004.

(B) If the fair rental value system property rate is less than the nursing facility's July 2, 2004 rate, the nursing facility's rate is adjusted to additionally pay the nursing facility the difference between the September 15, 2004 rate and the July 2, 2004 rate, but not to exceed $5 per patient day; and

(C) the hold harmless method expires on June 30, 2005.

(c) A pass-through component of the rate is applied and is calculated as follows:

(i) As used in this subsection (c), "property tax and property insurance index" is the percent change in the combined property tax and property insurance costs reported by the facility on its two most recent FCPs.

(ii) For a newly constructed facility that has not made two FCP reports, the property tax and property insurance index is the average percent change in the combined property tax and property insurance costs reported by all facilities on their two most recent FCPs.

(iii) The property tax and property insurance pass-through is trended forward by multiplying it by the property tax and property insurance index and adding it to the combined property tax and property insurance costs as reported on the most recent FCP to arrive at the pass-through amount.

(iv) The nursing facility's per diem property tax and property insurance cost is determined by dividing the facility's pass-through amount by the facility's actual total patient days.

(v) The average property rate under the current methodology is $13.81 per day. The average property rate under the proposed fair rental value methodology is $14.80 per day. The current property methodology does not include a separate property tax and insurance part of the property component of the rate. The new average daily capital component is $14.80 = $13.52 fair rental value + $1.28 property tax and insurance.

ATTACHMENT 4.19-D

600 PROPERTY (Continued)

Age Calculation Illustration For Bed Additions Projects

Example Facility	
Year of Construction: (Base Year)	1960 (A)
Initial Beds	25 (B)
Current Licensed Beds	45 (C
Example of Bed Addition Calculation	
Number of Beds Added	20 (D)
Year of Addition	1975 (E)
Calculation of Weighted Average Age of beds	
Initial Construction Beds	25 (B)
Year of Replacement (1975) minus (year of Construction (1960)	15 Age (years(E-A)
	375 (F)=(B)*[(E-A)]
Weighted Average Age of Beds	8 33 (G)=(F)/(B)+(D)
New Base Year	1967 (E)-(G)

Age Calculation Illustration For Bed Replacement Projects

Example Facility	
Year of Construction: (Base Year)	1969 (A)
Current Licensed Beds	45 (B)
Example of Bed Replacement Calculation	
Number of Beds Replaced	15 (c
Year of Replacement	1995 (D)
Difference in Years	26 (E)
Calulation of Weighted Average Age of beds	
Initial Construction Beds	45 (B)
Year of Replacement (1995) minus Base year (1969)	26 Age (years)
	780 (F)=(B-(c)*[(D)-(A)]
Weighted Average Age of Beds	17 33 (G)=(F)/(B)
New Base Year	1978 (D)-(G)

ATTACHMENT 4.19-D

600 PROPERTY (Continued)

Age Calculation Illustration For Renovation Projects

Assumptions:
Year of Construction: 1964
Year of Addition: 1992
Cost of Addition: $300,093
Rental Value in Year of Addition per Bed: $36,655
Depreciation Rate: 1.5%
Current Rental Value per Bed: $55,000
Rental Rate: 9%
Original Construction Beds: 52
Current Year: 2004

Calculation:

Year of Addition (1992) minus Year of Construction (1964)	28 (A)
Rental Value in Year of Addition	36,655 (B)
Depreciation Rate	1.50% (C
Accumulated Depreciation per bed (A)*(B)*(C	15,395 (A)*(B)*(C
Cost of Addition	$300,093 (D)
Accum. Depreciation per Bed	15,395 (E)
Bed Equivalent for Addition	19.49 (D)/(E)
Year of Addition	1992 (F)
Original Construction Beds	52 (G)
Bed Equivalent for addition	(19.49) (H)
	32.51 (I)=(G)-(H
Year of Addition (1992) minus Year of Construction (1964)	28 (A)
	910.20 (J)=(I)*(A)
Original Construction Beds 52	52 (K)
Weighted Average Age of beds	17.50 (L)=(J)/(K)
New Base Year (Year of Construction)	1974 (M)=(F)-(L)
Current Year	2004 (N)
New Base Year	1974 (M)
Adjusted Age of Facility	30 (O)=(N)-(M)
Rental Value:	
Current Rental Value per bed	$55,000 (P)
Original Beds	52 (G)
Total Rental Value	$2,860,000 R)=(P)*(G)
Accumulated Depreciation	
Current Rental Value per Bed	$55,000 (P)
Original Beds	52 (G)
Depreciation Rate	0.015 (C
Adjusted Age (in Years)	30 (O)
Accumulated Depreciation	$1,287,000 (U)=(P)*(G)*C)*(O)
Net Rental Value	$1,573,000 (V)=R)-(U)
Rental Rate 9%	0.09 (W)
Rental Amount	$141,570 (X)=(V)*(W)

700 PAYMENT TO PROVIDERS

710 INTRODUCTION

Payments for routine nursing facility services will be made monthly. These payments will be based on the established rate.

720 WITHHOLDING PAYMENTS

In order to assure compliance with selected policy and to assure collection of outstanding obligations, the State may withhold payment for the following reasons:

1. Shortages in Patient Trust Accounts

   Upon written notification that an examination of a patient trust fund account revealed an irreconcilable shortage, the facility must make a cash deposit in the full amount of the shortage within 10 days of notification. Within 30 days of such notification, documentary evidence must be presented to the Division of Health Care Financing attesting to this deposit. Failure to comply with this requirement will result in the withholding of the Title XIX payments. The cash transaction to transfer cash to the patient's account is not an allowable cost.

2. Failure to Submit Timely FCPs

   Reporting period requirements are specified in Section 332 title "Reporting". If the provider fails to meet these requirements, the State may withhold payment until such time as an acceptable FCP is filed. FCPs must be complete before they are considered filed.

3. Liabilities to the State

   When the State has established an overpayment, payments to the provider may be withheld. However, if the provider is an ongoing operation and if the provider can demonstrate serious cash flow problems, the State may accept a repayment schedule signed by the provider. Normally, this repayment schedule should not exceed 90 days. For ongoing operations, the State will provide 30-day notification before holding payments. This 30-day period is to give the provider time to appeal the appropriateness of the overpayment determination. The State may waive the 30-day notification period if there is cause to believe the delay will unduly jeopardize the collection.

730 LIMITATIONS ON PAYMENT

Payments will not exceed the upper limit for specific services as defined in 42 CFR 447.272.

800 APPEALS

810 RATE DISAGREEMENTS

Providers may challenge the payment rate established pursuant to Section 900 using the Administrative Hearing Procedures as contained in Administrative Rules (R410-14). Providers must exhaust administrative remedies before challenging rates in State or Federal Court.

900 GENERAL INFORMATION

Rate setting is completed by the Division of Health Care Financing (DHCF). Cost and utilization data is evaluated from facility cost profiles. The annual Medicaid budget requests include inflation factors for nursing facilities based on the Producer Price Index published by the U.S. Department of Labor, Bureau of Labor Statistics. The actual inflation will be established by the Utah State Legislature based on economic trends and conditions. Consideration will be given to the inflation adjustments given in prior years relative to the Producer Price Index.

920 RATE SETTING

Effective July 2, 2004, the base line per diem rate for all patients in the facility consists of: 1) a RUGs component, 2) a fixed rate component, and (3) a property component. The components are based on historical costs reported on facility cost profiles (cost reports). Historical costs are used for the flat rate and RUGs components of the rate. Changes have been made as to the cost centers that make up these two components as discussed in sections 921 and 922. The 50th percentile is used as a baseline for reasonable costs for the flat rate component. This component has been inflated by 6% (for 24 months) since the current rate was established. The RUGs component is based on historical costs but at the 96th percentile which results in a significant increase in this component aimed at increasing nursing expenditures and thereby enhancing the quality of care in nursing facilities.

The historical cost calculation, although utilizing the facility cost profiles, will be adjusted to account for certain "add on" payments including, intensive skilled payment enhancements, specialized rehabilitation services (SRS) payment enhancements, behaviorally challenging payment enhancements and any other enhancement payments that Medicaid may initiate in the future to enhance the quality of care in nursing care facilities.

Effective September 15, 2004, the property component of the per diem rate will be calculated using a Fair Rental Value (FRV) methodology instead of historical costs. This methodology is discussed in detail in Section 634.